



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष २, अंक ४२ (३)]

मंगळवार, जुलै १९, २०१६/आषाढ २८, शके १९३८

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असाधारण क्रमांक ६७

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Amendment) Bill, 2016 (L. A. Bill No. XXVI of 2016), introduced in the Maharashtra Legislative Assembly on the 19th July 2016, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

P. H. MALI,

Principal Secretary (Legislation) to Government,
Law and Judiciary Department.

L. A. BILL No. XXVI OF 2016.***A BILL***

for further to amend the Maharashtra Municipal Corporations Act and the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965.

WHEREAS both Houses of the State Legislature were not in session;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Municipal Corporations Act and the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, for the purposes hereinafter appearing; and, therefore, promulgated the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships (Amendment) Ordinance, 2016, on the 19th May 2016;

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Sixty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and Commencement.

1. (1) This Act may be called the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Amendment) Act, 2016.

(2) It shall be deemed to have come into force on the 19th May 2016.

CHAPTER II

AMENDMENT TO THE MAHARASHTRA MUNICIPAL CORPORATIONS ACT

Amendment of section 5 of LIX of 1949.

2. In section 5 of the Maharashtra Municipal Corporations Act, in sub-section (3),—

LIX of 1949.

(a) before the first proviso, the following proviso shall be inserted, namely :—

“Provided that, after the commencement of the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Amendment) Act, 2016, in respect of the general elections to the Corporation, each of the wards shall elect as far as possible four Councillors but not less than three and not more than five Councillors, and each voter shall, notwithstanding anything contained in this Act, be entitled to cast the same number of votes, as the number of Councillors to be elected in his ward :”;

Mah.
of
2016.

(b) in the first proviso, for the words “Provided that” the words “Provided further that” shall be substituted.

CHAPTER III

AMENDMENTS TO THE MAHARASHTRA MUNICIPAL COUNCILS, *NAGAR PANCHAYATS AND INDUSTRIAL TOWNSHIPS ACT, 1965*

Amendment of section 2 of Mah. XL of 1965.

3. In section 2 of the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965 (hereinafter, in this Chapter, referred to as “the Municipal Councils Act”),—

Mah.
XL of
1965.

(a) in clause (7),—

(i) after the words “a member of the Council,” the words “the directly elected President” shall be inserted ;

(ii) in sub-clause (ii), the words “ a President of the Council or” shall be deleted ;

(b) for clause (12), the following clause shall be substituted, namely :—

“(12) “election” means an election to a Council or to the office of the President, as the case may be, and includes any by-election;”.

Amendment of section 9 of Mah. XL of 1965.

4. In section 9 of the Municipal Councils Act, in sub-section (1), in clause (a), for the word “Councillors” the words “the President and the Councillors” shall be substituted.

Amendment of section 10 of Mah. XL of 1965.

5. In section 10 of the Municipal Councils Act, to sub-section (2), the following proviso shall be added, namely :—

Mah.
of
2016.

“Provided that, after the commencement of the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Amendment) Act, 2016, in respect of the general elections to the Council, each of the wards shall elect as far as possible two Councillors but not more than three Councillors, and each voter shall, notwithstanding anything contained in sub-section (2) of section 14, be entitled to cast the same number of votes, as the number of Councillors to be elected in his ward.”.

6. After section 51 of the Municipal Councils Act, the following section shall be inserted, namely :—

Insertion of
section 51A-1A
in Mah. XL of
1965.

Mah.
of
2016.

“51A-1A. (1) After the date of commencement of the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Amendment) Act, 2016, in respect of the general elections to the Council, subject to the provisions of section 51-1A, every Council shall have a President who shall be elected by the persons whose names are included in the municipal voters list prepared under section 11.

Direct
Election of
President.

(2) Every person qualified to be elected as a Councillor under section 15 shall be qualified to be elected as a President at an election.

(3) Election of the President shall be held simultaneously with the general elections of the Council and the procedure regarding holding of elections to the Council shall, *mutatis mutandis*, apply to such election.

(4) If at an election, no President is elected, a fresh election shall be held to elect a President, and if there is a failure to elect a President at the fresh election, such vacancy may, notwithstanding anything contained in this Act, be filled by election by the elected Councillors from amongst themselves.

(5) Any person elected under sub-section (4) or (7) shall be deemed to be duly elected at an election under this section.

(6) If, in the election of the President, there is an equality of votes, the result of the election shall be decided by lots to be drawn by the State Election Commissioner or the officer appointed by him for the purpose.

(7) If, during the term of the elected Councillors, there is a vacancy in the office of the President due to any reason, the same procedure as provided in sub-sections (1) to (6) shall apply and such President shall remain in office only for the remainder of the term, for which his predecessor would have remained in office but for such casual vacancy :

Provided that, if a vacancy occurs, which is within six months prior to the date on which the term of office of the elected Councillors expires, the same shall be filled in by election from amongst the elected Councillors.

(8) in case of a dispute regarding election of the President, the provisions of section 21 shall, *mutatis mutandis*, apply.

(9) The Collector shall convene first general meeting of the Council within twenty-five days from the date on which the name of the President and the elected Councillors is published in the *Official Gazette* after the general election of the Council and the President. The nomination of the Councillors under clause (b) of sub-section (1) of section 9 shall be made in the prescribed manner in this meeting.”.

Amendment of
section 51A of
Mah. XL of 1965.

7. In section 51A of the Municipal Councils Act, after sub-section (6), the following sub-section shall be inserted, namely :—

“(6A) In respect of the Councils to which the President is directly elected after the commencement of the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Amendment) Act, 2016, the provisions of this section shall apply with the following modifications :—

(i) for sub-section (1), the following sub-section shall be substituted, namely :—

“(1) Every Council shall have a Vice- President, who shall be elected by the elected Councillors amongst themselves in the first general meeting convened under sub-section (9) of section 51A-1A.”;

(ii) for sub-section (6), the following sub-section shall be substituted, namely :—

“(6) Subject to the provisions of section 55A and other provisions of this Act, the Vice-President shall hold the office for a term of five years from the date of his election and his term shall be co-terminus with the term of the Council.”.”.

Amendment of
section 51B of
Mah. XL of 1965.

8. In section 51B of the Municipal Councils Act, after sub-section (3), the following sub-section shall be added, namely :—

“(4) The provisions of this section shall not apply when the President is elected under section 51A-1A.”.

Amendment of
section 52 of
Mah. XL of 1965.

9. Section 52 of the Municipal Councils Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1), as so re-numbered, the following sub-sections shall be added, namely :—

“(2) Notwithstanding anything contained in sub-section (1), the term of office of the President, elected under sub-section (1) of section 51A-1A, shall be of five years and shall be co-terminus with the term of the Council.

(3) Nothing in sub-section (2) shall apply to the term of office of the Presidents who are holding the office in respect of the Council for which general elections have been held prior to the date of commencement of the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Amendment) Act, 2016 and the provisions of this section, as it existed on the date immediately preceding such date of commencement, shall continue to apply in respect of the term of office of such Presidents.”.

Amendment of
section 55 of
Mah. XL of 1965.

10. In section 55 of the Municipal Councils Act, in sub-section (1), for the proviso, the following proviso shall be substituted, namely :—

“Provided that, no such resolution shall be moved within a period of two years from the date of election of the directly elected President and in case of the President elected by the Councillors from amongst themselves, within one year from the date of such election.”.

Insertion of
sections 341B-
1 to 341B-6 in
Mah. XL of
1965.

11. After section 341B of the Municipal Councils Act, the following sections shall be inserted, namely :—

Mah.
of
2016.

Mah.
of
2016.

“ ३४१B-१. (१) Subject to the provisions of section 51-1A, every *Nagar Panchayat* shall have a President who shall be elected by the elected Councillors from amongst themselves.

Election of
President of
Nagar
Panchayat.

(२) The Collector shall, within twenty-five days from the date on which the names of the Councillors elected to *Nagar Panchayat* are published or, as the case may be, first published under sub-section (१) of section 19, in the *Official Gazette*, convene a special meeting of the Councillors for election of a President :

Provided that, a meeting under this section shall not be held before the expiry of the term of office of the outgoing Councillors.

(३) The meeting called under sub-section (२) shall be presided over by the Collector or such officer as the Collector may by order in writing appoint in this behalf. The Collector or such officer shall, when presiding over such meeting, have the same powers as the President of a *Nagar Panchayat* when presiding over a meeting of the *Nagar Panchayat* has, but shall not have the right to vote :

Provided that, notwithstanding anything contained in this Act for regulating the procedure at meetings (including the quorum required thereat), the Collector or the officer presiding over such meeting may, for reasons which in his opinion are sufficient, refuse to adjourn such meeting.

(४) Any Councillor aggrieved by any decision of the Collector or such officer, accepting or rejecting any nomination paper, may, within forty-eight hours from intimation of such decision, present an appeal to the Regional Director of Municipal Administration concerned and simultaneously give notice of such appeal to the Collector or such officer. Such appeal shall be disposed of by the Regional Director, as expeditiously as possible, after giving a reasonable opportunity of being heard to the parties concerned. The decision of the Regional Director on such appeal, and subject only to such decision (if any), the decision of the Collector or such officer, as the case may be, accepting or not, shall not be called in question in any Court.

(५) If, in the election of the President there is an equality of votes, the result of the election shall be decided by lots to be drawn in the presence of the Collector or the officer presiding in such manner as he may determine.

(६) Any dispute regarding election of the President shall be referred to the State Government whose decision in that behalf shall be final.

(७) After election of the President, the *Nagar Panchayat* shall continue its meeting for the purpose of electing the Vice-President.

(८) If there is a vacancy in the office of the President due to any reason whatsoever, then for subsequent election of a President, the same procedure as laid down in sub-sections (२) to (६) (both inclusive) shall apply except that the special meeting shall be called by the Collector within twenty-five days from the date on which the vacancy occurs.

(९) The subsequent election to the post of the President after expiry of the first term of the two and a half years of the President elected under the provisions of sub-section (२), shall be held within a period of eight days prior to the expiry of the said term of the earlier President :

Provided that, the newly elected President shall take charge on the last day of the term of the outgoing President or next day thereafter.

Election of
Vice-
President of
*Nagar
Panchayat.*

341B-2. (1) Every *Nagar Panchayat* shall have a Vice-President, who shall be elected by the elected Councillors from amongst themselves in the special meeting convened under sub-section (2) of section 341B-1.

(2) The meeting to elect the Vice-President shall be presided over by the Collector or such officer as the Collector may nominate specially in this behalf, but the Collector or such other officer shall have no right to vote:

Provided that, notwithstanding anything contained in this Act or the rules made thereunder, for regulating the procedure at meetings (including the quorum thereat), the Collector or, as the case may be, the officer, presiding over such meeting may, for sufficient reasons to be recorded in writing, refuse to adjourn such meeting.

(3) If, in the election of the Vice-President, there is equality of votes, the result of the election shall be decided by the officer presiding over such meeting by drawing lots.

(4) The name of the Vice-President so elected shall be notified by the Collector, *in the Official Gazette*, within fifteen days from such election.

(5) Any dispute regarding the election of the Vice-President shall be referred to the State Government, whose decision thereon shall be final.

(6) Subject to the provisions of section 55A and other provisions of this Act, the Vice-President, shall hold the office, for a term of two and half years from the date of his election.

(7) If there is any vacancy in the office of the Vice-President for any reason whatsoever, the vacancy shall be filled up by following the procedure prescribed in sub-sections (1) to (3) and the Vice-President so elected shall remain in office only for the remainder of the term, for which his predecessor would have remained in office but for such vacancy.

Nomination of
Councillors of
*Nagar
Panchayat.*

341B-3. (1) The Collector shall, within seven days from the date of election of the President, call a special meeting for the purpose of nominating Councillors.

(2) The nominations of the Councillors under clause (b) of sub-section (1) of section 9, shall be made in the prescribed manner.

(3) The meeting called under sub-section (1) shall be presided over by the Collector or such officer as the Collector may by order in writing appoint in this behalf. The Collector or such officer shall, when presiding over such meeting, have the same powers as the President of a *Nagar Panchayat* when presiding over a meeting of the *Nagar Panchayat* has, but shall not have the right to vote :

Provided that, notwithstanding anything contained in this Act for regulating the procedure at meetings (including the quorum required thereat), the Collector or the officer presiding over such meeting may, for reasons which in his opinion are sufficient, refuse to adjourn such meeting.

Term of office of
President of
*Nagar
Panchayat.*

341B-4. The term of office of the President, shall be of two and half years.

341B-5. (1) A President of a *Nagar Panchayat* shall cease to be the President if the Councillors by a resolution passed at a special meeting by majority not less than three-fourths of the total number of Councillors so decides : Removal of President of *Nagar Panchayats* by Councillors.

Provided that, no such resolution shall be moved within a period of one year from the date of the election of the President.

(2) The requisition for such special meeting shall be signed by not less than one-half of the total number of Councillor's and shall be sent to the Collector.

(3) The Collector shall, within ten days of the receipt of a requisition under sub-section (2), convene a special meeting of the Council :

Provided that, when the Collector convenes a special meeting, he shall give intimation thereof to the President.

(4) A meeting to consider a resolution under sub-section (1) shall be presided over by the Collector or any other officer authorised by him in this behalf, but the Collector or such other officer shall have no right to vote.

(5) The nominated Councillors shall have no right to vote on any resolution relating to the removal of the President.

(6) If the resolution seeking the removal of the President is not moved or, as the case may be, rejected, in the special meeting convened for the purpose under sub-section (3), no fresh resolution seeking the removal of the President shall be brought before the *Nagar Panchayat*.

341B-6. (1) A Vice-President shall cease to be the Vice-President, if the *Nagar Panchayat* by a resolution passed by a majority of not less than two-thirds of the total number of the Councillors, at a special meeting, so decides : Removal of Vice-President of *Nagar Panchayats* by Councillors.

Provided that, no such resolution shall be moved within a period of six months from the date of election of the Vice-President.

(2) The requisition for such special meeting shall be signed by not less than one-half of the total number of Councillors and shall be sent to the President, and the President shall, within ten days of the receipt of such requisition, convene a special meeting of the *Nagar Panchayat*, where the nominated Councillors shall have no right to vote.

(3) If the resolution seeking removal of the Vice-President is not moved or as the case may be, rejected, in the special meeting convened for the purpose under sub-section (2), no fresh resolution for such removal shall be brought during the tenure of such Vice-President.”.

CHAPTER IV

MISCELLANEOUS

12. (1) If any difficulty arises in giving effect to the provisions of the Maharashtra Municipal Corporations Act or, as the case may be, the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, as amended by this Act, the State Government may, as the occasion arises, by an Order published in the *Official Gazette*, give such directions not inconsistent with the provisions of the said Acts as amended by this Act, as may appear to it to be necessary or expedient for the purpose of removing the difficulty : Power to remove difficulty.

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

Repeal of
Mah. Ord. IX
of 2016 and
saving.

13. (1) The Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Amendment) Ordinance, 2016, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of the Maharashtra Municipal Corporation Act and the Municipal Councils Act, as amended by the said Ordinance, shall be deemed to have been done, taken or, as the case may be, issued under the corresponding provisions of the said Acts, as amended by this Act.

Mah.
Ord. IX
of
2016.

LIX of
1949.

STATEMENT OF OBJECTS AND REASONS

As per the then existing provisions of the Maharashtra Municipal Corporations Act (LIX of 1949) and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965 (Mah. XL of 1965), each ward in the Municipal Corporation and the Municipal Council elected only one Councillor. Also the President of a Municipal Council was being elected by the elected Councillors from amongst themselves.

After taking the review of such position and with a view to ensure the smooth functioning of the Corporations and the Municipal Councils, the State Government considered it expedient to suitably modify the provisions of the said Acts.

2. The salient features of the then proposed amendments were as under :—

(i) *Multi-member ward system*.—It was proposed to provide that, each of the wards of the Municipal Corporation shall elect, as far as possible four Councillors but not less than three and not more than five Councillors. In case of a Municipal Council, each ward of a Municipal Council shall elect two Councillors but not more than three Councillors. It is proposed to amend sections 5 and 10 of Acts LIX of 1949 and Mah. XL of 1965, respectively.

(ii) *Direct election of President of a Municipal Council*.—It was proposed to provide that, the President of a Municipal Council shall be elected by the voters of the Council at the general election of the Council. However, such provision would not apply in respect of the *Nagar Panchayats* and the system in vogue, in respect of the Presidents of the *Nagar Panchayats* shall continue to apply.

Consequently, it was also proposed to modify the provisions relating to the election of Vice-President, where the President was to be elected by the voters of the Council at the general election of the Council.

Accordingly, it was proposed to amend sections 2, 9, 51A, 51B, 52, 55 and insert new sections 51A-1A, 341B-1, 341B-2, 341B-3, 341B-4, 341B-5 and 341B-6 in Mah. XL of 1965, suitably, for the aforesaid purposes.

3. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Municipal Corporations Act (LIX of 1949) and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965 (Mah. XL of 1965), for the purposes aforesaid, the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Amendment) Ordinance, 2016 (Mah. Ord. IX of 2016), was promulgated by the Governor of Maharashtra on the 19th May 2016.

4. The Bill seeks to replace the said Ordinance by an Act of the State Legislature.

Mumbai,
Dated the 16th July 2016.

DEVENDRA FADNAVIS,
Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 11.— Under this clause, which seek to insert new section 341B-1 to 341B-6 in the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, power is taken in section 341B-2, in sub-section (4), to the Collector to notify, by notification in the *Official Gazette*, the name of the Vice-President elected thereunder within fifteen days from his election.

Clause 12.— Under this clause, power is taken to the State Government to issue an order for removing any difficulty, which may arise in giving effect to the provisions of the Maharashtra Municipal Corporations Act and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, as amended by this Act, within a period of two years from the date of commencement.

2. The above-mentioned proposals for delegation of legislative power are of normal character.